

FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE UNOPPOSED VERIFIED )  
PETITION OF THE UNITED STATES ) Civil Action No. 1:07MC61  
OF AMERICA TO PERPETUATE )  
TESTIMONY )

Deposition of MORRIS DODD, taken in the  
above-entitled case on October 30, 2007, at City Hall,  
447 South Main Street, Hillsboro, Illinois, scheduled for  
the hour of 1:30 P.M., before Connie S. Golembeck,  
Certified Shorthand Reporter, Registered Professional  
Reporter and Notary Public, pursuant to the stipulation  
attached hereto.

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## 1 APPEARANCES:

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5 Appeared on behalf of the United States  
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13 Appeared on behalf of The Sherwin-Williams  
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17 Appeared on behalf of T.L. Diamond

## 18 ALSO PRESENT:

19 Mr. Dion Novak, USEPA  
Mr. Dean Bangor, T.L. Diamond

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1           S\_T\_I\_P\_U\_L\_A\_T\_I\_O\_N  
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2           It is stipulated and agreed, by and between the  
3 parties hereto, through their attorneys, that the  
4 deposition of MORRIS DODD may be taken before Connie S.  
5 Golembeck, Certified Shorthand Reporter, Registered  
6 Professional Reporter and Notary Public, upon oral  
7 interrogatories, on October 30, 2007, at the instance of  
8 the U.S. EPA, scheduled for 1:30 P.M., at 447 South Main,  
9 Hillsboro, Illinois.

10          That the oral interrogatories and the answers of the  
11 witness may be taken down by stenographic means by the  
12 reporter and afterwards transcribed.

13          That any requirement as to the reading over and  
14 signing of the deposition by the witness or the filing of  
15 the same are not expressly waived.

16          That all objections are hereby reserved except as to  
17 the form of question which is waived unless specifically  
18 noted.

19          That the deposition or any part thereof may be used  
20 for any purposes for which depositions are competent, by  
21 any of the parties hereto, without foundation proof.

22          That any of the parties hereto may be furnished  
23 copies of the deposition at his or her own expense.

24

1 MR. KRUEGER: Are we ready?

2 If I could ask you to swear in the witness,  
3 please.

4 (Witness was sworn by the  
5 reporter.)

6 MORRIS DODD

7 called as a witness herein, having been first duly sworn  
8 upon his oath, was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. KRUEGER:

11 Q And could you state your name for the record,  
12 please?

13 A Morris A. Dodd.

14 Q And are you familiar with the zinc plant in  
15 Hillsboro?

16 A Yes. I've been associated with it for many  
17 years.

18 Q And could you tell me what years you were  
19 employed there?

20 A (Short pause) -- as a place of employment  
21 specifically?

22 Q Yes, please.

23 A Okay. First time was plant manager from  
24 nineteen-fifty -- late eight, seven to '61. Second time

1 as general manager of the zinc oxide department, and that  
2 was from 1971 until the sale of the plant to  
3 Sherwin-Williams in 1980 -- '71, '80.

4 Q And you have any other -- any further employment  
5 at the Hillsboro plant?

6 A Oh, yes. As employee of Sherwin-Williams  
7 from -- Sherwin-Williams Chemicals, from again late in  
8 1980 until August of '81; and, then again as consultant to  
9 T.L. Diamond, Incorporated from 1984 until 2003.

10 Q Okay. And are you familiar with the plant  
11 operations at the Hillsboro zinc plant?

12 A Yes, I am.

13 Q And how are you -- how have you become familiar  
14 with them?

15 A (Short pause) -- well, I was superintendent of  
16 the zinc oxide department for Eagle Picher upon my  
17 employment in East Chicago, Indiana. So the Hillsboro  
18 plant was at that time producing zinc oxide plant of Eagle  
19 Picher as well, and so we had natural business relations.  
20 Then effective in the years of 1951 through 1956 I was in  
21 charge of the development of zinc -- zinc oxide in both  
22 process and quality control; and, although I lived in  
23 Joplin, Missouri most of the time, I spent a lot of my  
24 business time in Hillsboro during that -- during those

1     years.

2       Q   And you were an employee of Eagle Picher --

3       A   At that time --

4       Q   -- at that time?

5       A   -- yes, yes.

6       Q   And are you familiar with the processes --

7     manufacturing processes, at the Hillsboro plant?

8       A   Absolutely.

9       Q   And how did you become familiar with those

10    processes?

11      A   Well, during this period of -- development

12    period from '51 to '56, it was my duty to learn the -- the

13    processes and which at that time were the Wetherill

14    furnaces in the Hillsboro plant and the rotary furnaces.

15    And then in 1954 I supervised -- designed and supervised

16    the construction of the first muffle furnace there.

17      Q   And are you familiar with the materials that are

18    used at the Hillsboro plant?

19      A   Absolutely.

20      Q   And how have you become -- or, how did you

21    become familiar with them?

22      A   (Short pause) -- well, as far as the muffle

23    furnaces is -- is concerned, I was in charge of purchasing

24    the first raw materials for the plant because of my

1 experience at the East Chicago plant. And so we hired a  
2 broker to buy the scrap. I oversaw the quality and the  
3 price that -- as it was purchased. For the American  
4 process units, the Wetherill and the rotary furnace, I --  
5 I did quite a little bit of work upon improving the  
6 quality of those -- the feed material because Eagle Picher  
7 mined the ore in northern Illinois, shipped it to Galena,  
8 Kansas where it was purified and then sent to Hillsboro as  
9 a raw material.

10 Q And are you familiar with the materials that are  
11 generated at the Hillsboro plant?

12 A Yes.

13 Q And how did you become familiar with those  
14 materials?

15 A Oh, by intimate relation to operation of the --  
16 of the units themselves.

17 Q And did you supervise the operation of the  
18 Hillsboro plant?

19 A (Short pause) -- well, as I stated, I was plant  
20 manager for four years. So, yes, that's more direct in  
21 the later term. I was not intimately connected with the  
22 day to day operation, under my general supervision, but  
23 not -- not daily.

24 Q Did you train people in the operation of the



1 equipment at the Hillsboro plant?

2 A Yes. Specifically, the operation of the muffle  
3 furnace. Other training of other operating personnel  
4 might just have -- a matter of execution of the job,  
5 nothing specific.

6 Q Okay. Would you say you have hands-on  
7 experience with the equipment at the Hillsboro plant?

8 A Yes.

9 Q And why would you say that?

10 A Well, because I spent many hours there during  
11 operating hours in the -- in the '50s, not -- not -- not  
12 since -- not since I left in '61. But in the period of  
13 '51 through '61, yeah, I was pretty -- pretty close to the  
14 operation.

15 Q Did you have hands-on experience with the plant  
16 operations when you served as general manager in the '70s?

17 A To very minor degree. There was always a plant  
18 manager and a plant superintendent.

19 Q Okay. Did --

20 A But --

21 Q -- you -- I'm sorry.

22 A At that time.

23 Q Did you supervise the people who had hands-on  
24 experience with the plant when you were general manager in

1 the '70s?

2 A Say that again?

3 Q Did you supervise people who had hands-on  
4 experience at the plant?

5 A (Short pause) -- I don't think I understand the  
6 question, Tom.

7 Q That -- that's fair.

8 And I -- please, do let me know if you don't  
9 understand the question, then I'll try to -- to recast or  
10 clarify what I'm going for.

11 And similarly, any time you want to or need to  
12 take a break, just let us know. We'll be happy --

13 A Okay.

14 Q -- to accommodate you.

15 A Thank you.

16 Q Would you consider yourself to be an expert on  
17 the operation of the equipment at the Hillsboro plant?

18 A (Short pause) -- in a general way, yes.

19 Q All right, let's turn to Eagle Picher's  
20 operation of the plant more specifically.

21 A Okay.

22 Q Can you tell me when you first came to work for  
23 Eagle Picher?

24 A December 1, 1948.

1 Q And what did you do at that time?

2 A Well, I worked in development for about six  
3 months and then was made superintendent of the zinc oxide  
4 department at the East Chicago plant of Eagle Picher.

5 Q And you indicated you became plant manager of  
6 the Hillsboro plant in 1957?

7 A Yes.

8 Q Okay. And what were your duties as plant  
9 manager?

10 A (Short pause) -- I -- I find -- I find that  
11 of -- of -- a rather confusing question.

12 Q What did your job entail when you were the plant  
13 manager at the Hillsboro plant?

14 A Well, the plant manager is responsible to the  
15 day -- for the day by day operation of the plant.

16 Q All right.

17 A Period.

18 Q What I'd like to do now is, I'm going to give  
19 you what I've marked as Government Exhibit 5.

20 (It should be noted that  
21 Government Exhibit Number 5  
22 was marked for identification  
23 and furnished to the deponent  
24 for review.)

1       A    Okay.

2       MR. KRUEGER:  And I'll provide copies to Counsel.

3                       (It should be noted that  
4                       copies of said exhibit were  
5                       furnished to Counsel.)

6       MR. IX:  Thank you.

7       MR. KRUEGER:  And I'd like to ask you first, if -- if  
8   you recognize the structures shown on that map?

9                       (Short pause while said  
10                      exhibit was reviewed by the  
11                      deponent.)

12      THE DEPONENT:  Structures?

13      Q   (Nods head yes.)

14      A    Yes.

15      Q    And would you say that's a fair and accurate  
16   representation of the structures now present --

17      A    It's a fair representation of the plant layout,  
18   yes.

19      Q    What I'd like to do now is use that map to help  
20   identify and talk about some of the operations that were  
21   conducted at the plant.

22             And I'd like to direct your attention first to  
23   the northern most buildings on the plant property.  And  
24   I'm also gonna give you a pen and ask if you'll -- if

1     you'd be willing to mark up that map as we go along. Can  
2     you tell me what those northern most buildings are?

3         A   Those buildings in the -- were named in the  
4     Eagle Picher days as the sublead. And the reason being,  
5     that Eagle Picher started the construction of a sublimed  
6     lead plant there in 1932 during the depression because  
7     they planned on expansion of that product from the Joplin,  
8     Missouri plant. Business deteriorated to the extent that  
9     they simply stopped construction on the plant itself and  
10    just left the buildings unfinished, as a matter of fact.  
11    Later on they were roofed and made weather-tight so they  
12    could be used for storage and were used for storage for  
13    Eagle Picher.

14         Q   Could I ask you to circle those buildings and  
15    label them?

16         A   You want me to write?

17         Q   Yes, please.

18                     (Which was so done.)

19         A   Sublead is, of course, a kind of nickname; but,  
20    then that's --

21         Q   And then I'd like to direct you down to the  
22    southeast.

23         A   Okay.

24         Q   To the other building that's -- that's north of

1 the roadway on the property.

2 A (Short pause) --

3 Q Or, I'm sorry, that's the southwest, isn't it.

4 I'm --

5 A Well --

6 Q -- I'm -- southeast -- southeast, I'm

7 backwards --

8 A Southeast -- we're back in this corner?

9 Q But --

10 A This is southwest. Southeast?

11 Q Right. The -- and I'd like specifically to  
12 direct you to the -- the nearest building to the sublead

13 building that's off down to the southwest, and that's --

14 A There is no building.

15 MR. IX: Southeast.

16 MR. KRUEGER: Southeast -- southeast, I'm sorry.

17 THE DEPONENT: Southeast. Well, you could consider  
18 it -- this building.

19 Q And --

20 A Which is the muffle furnace building.

21 Q And I -- who constructed the muffle furnace?

22 A I did. I supervised the construction, the  
23 original construction of the first furnace and the  
24 building in 1953 and '54. '54 finished it.

1 Q All right. Could I ask you to -- to circle and  
2 label that building for me as well?

3 A Okay.

4 (Which was so done.)

5 Q Okay. And could you describe how a muffle  
6 furnace works in general terms?

7 A Well, generically, it's a reverberatory furnace  
8 with an intervening -- (short pause) -- ceramic arch  
9 separating the combustion gases from the charge material  
10 which is -- makes it different from a common  
11 reverberatory. Common reverberatory, the gas interfaces  
12 with a product or the charge as the case may be. That's  
13 the technical difference.

14 Q All right. And what raw materials would Eagle  
15 Picher feed into the muffle furnace?

16 A Metallic zinc or metallic zinc scrap.

17 Q And was that material then heated?

18 A Yes, it boiled --

19 Q Okay.

20 A -- boiled the zinc off --

21 Q Okay.

22 A -- vapor form.

23 Q And how was it heated?

24 A With natural gas.

1       Q   And how many muffle furnaces did Eagle Picher  
2   operate at -- at the plant?

3       A   Two.

4       Q   And were they both contained in that muffle  
5   building?

6       A   Yes.

7       Q   And how did the muffle furnace produce zinc  
8   oxide?

9       A   Boiled the zinc and -- and oxidized it when it  
10   was in its vapor form.

11      Q   Okay. And did the muffle furnace produce  
12   products or by-products in addition to zinc oxide?

13      A   Yes.

14      Q   And what were those materials?

15      A   Basically -- (short pause) -- two. Dross from  
16   the melting unit, and that's called muffle dross; and,  
17   residue metal which was the nonvolatile part of the zinc  
18   scrap that was furnaced.

19      Q   And what did Eagle Picher do with the residue  
20   metal?

21      A   Sold it into the trade. Basically, for its  
22   aluminum content.

23      Q   And what did Eagle Picher do with the dross?

24      A   Sold some, processed some to make a crude oxide.



1       Q   And was Eagle Picher able to sell or -- sell or  
2   reprocess all of the metal dross?

3       A   Well, there was metal dross in inventory when  
4   the plant was sold to Sherwin-Williams.

5       Q   And when you say in inventory, where would that  
6   material have been --

7       A   It was --

8       Q   -- held?

9       A   -- basically lying on the ground either around  
10   the muffle furnace building itself or in a storage area  
11   that we used which would be -- oh, you could say it was  
12   due east of the -- or, due west, I mean, of the muffle  
13   furnace building --

14      Q   All right.

15      A   -- basically.

16      Q   Could I ask you on -- on that map to indicate at  
17   least the approximate location --

18      A   Well --

19      Q   -- of the muffle dross?

20      A   -- it's about -- it's about where you have the  
21   RRO-12 in -- on this map.

22      Q   All right. Would you be willing to go ahead  
23   and -- and actually draw a circle on there and label it?

24      A   Now you're getting too -- too definitive. Too

1 definitive. I just -- I know that's the area that it was  
2 stored. I don't know what the limits of the area were, I  
3 don't remember. Even if I ever knew.

4 Q All right. And you indicated that was where  
5 the -- where the text words RRO-12 are located on the map?

6 A In that general area, yes.

7 Q Oh, okay.

8 A Yes. To the south of the sublead building and  
9 to the west of the roadway that ran out to there, yes. In  
10 that general area.

11 Q Okay. Then going back to the map, I'd like to  
12 now follow down the roadway from the sublead building to  
13 the south --

14 A Uh-huh.

15 Q -- and I ask if you can identify what the long  
16 building oriented north to south is that's just to the  
17 east of that roadway?

18 A Well, the longest building is the old Wetherill  
19 building which contained the four Wetherill furnaces. And  
20 attached immediately to the south is the old mix room  
21 building containing the hoppers for -- for feed and for  
22 coal and -- and the mixing facility.

23 Q All right. And could I ask you to go ahead  
24 and -- and label those buildings on the map as well?

1       A   Well, basically, this is the Wetherill building.

2       And the area to the south in general is the mix area, so

3       I'll just put mix -- (short pause) -- like that.

4                       (Which was so done.)

5       Q   All right. I'll -- I'll pass this around to

6       the --

7       A   Sure.

8       Q   So they can see.

9                       (It should be noted that

10                      copies of said exhibit were

11                      furnished for review to

12                      Counsel.)

13      Q   And could you describe for me how the Wetherill

14      furnaces operated?

15      A   (Short pause) -- well, the Wetherill again was

16      a stylized type of reverberatory furnace in the sense that

17      it was constructed of brick sides and top but the bottom

18      of the furnace consisted of a series of grates made of --

19      made out of cast iron; and, the principle of the operation

20      was to mix coal with zinc ore, spread it on the grate and

21      then supply combustion air from a blower through the --

22      through the grate upward and the coal then would burn,

23      create the heat to carry forward the -- forward the

24      reduction of the zinc ore.

1       Q   And were the Wetherill furnaces used to produce  
2   zinc oxide as well?

3       A   That's their sole purpose.

4       Q   Right.

5       A   Was -- yeah, yes.

6       Q   And did the Wetherill furnaces generate any  
7   product or by-product in addition to zinc oxide?

8       A   Yes. A residue generally called clinker, but --  
9   that's a generalized term for core species, there were  
10   also finer particles involved. Depending upon on what  
11   kind of ore was used, how the furnace was operated, the  
12   residue could have sort of different physical forms; but,  
13   it would be the same --

14      Q   Okay.

15      A   -- general product all -- all the time.

16      Q   Were there any other products or by-products  
17   generated by the Wetherill furnace beyond zinc oxide and  
18   the clinker material?

19      A   No. Basically not, no.

20      Q   Okay. And what did Eagle Picher do with the  
21   clinker from the Wetherill furnace?

22      A   It was disposed of over the years in two  
23   different manners. Part -- sometimes it was sold. A big  
24   share went to the old Haigler (phonetic) Zinc Company in

1 the '50s, and the remainder of it was generally processed  
2 by the company at Henryetta, Oklahoma in the Waelz kiln  
3 there which would recover the zinc values.

4 Q Would any of the Wetherill clinker have remained  
5 at the Hillsboro plant site?

6 A Only that of which somebody forgot to pick up.  
7 Essentially, it was -- it was disposed of.

8 Q All right.

9 A Essentially.

10 Q And did Eagle Picher later change its use of the  
11 Wetherill building?

12 A Oh, certainly.

13 Q And how did that change?

14 A Well, the -- eventually, the Wetherill furnaces  
15 were all replaced by rotary kilns.

16 Q Do you recall when that replacement occurred?

17 A Well, I believe the number one rotary was built  
18 in 1940 -- but, of course, I wasn't around. Number three  
19 kiln was built, I believe, in 1960. And number four which  
20 is in that same building was built in seventy -- (short  
21 pause) -- I'm almost afraid to say the year, '73, I think.

22 Q And is there a rotary furnace number two located  
23 elsewhere on the plant site?

24 A Yes. The number two rotary furnace is on the

1 east side of the property in a separate building.

2 Q Could I ask you to circle that building on the  
3 map and label it for me as well?

4 A Well, it's this building right -- (short  
5 pause) -- right here.

6 (Which was so done.)

7 Q So that's been labeled as rotary two?

8 A Number two.

9 Q And you indicated a building on the eastern  
10 end -- edge of the --

11 A Uh-huh.

12 (It should be noted that  
13 copies of said exhibit were  
14 furnished for review to  
15 Counsel.)

16 A It was Eagle Picher's plan actually to build  
17 more furnaces there, but -- and that's why the furnaces  
18 were separated kind of physically from the -- from the  
19 rest of the buildings, is because it was a -- it was an  
20 engineering plan to build more than one furnace in a row  
21 over there; but, business conditions and other things  
22 obviously lead to the fact that they never got built.

23 Q And could you explain to me how a rotary furnace  
24 works to produce zinc oxide?

1       A   Well, very simple in principle. Simply melt or  
2   admix reduction fuel which is anthracite coal with the  
3   zinc-bearing material and -- (short pause) -- drop it into  
4   one end of the kiln. The kiln has a sufficient slope and  
5   that -- the material works its way down through the kiln  
6   and the residue is just discharged at the other end.

7       Q   And now you -- you indicated that the inputs to  
8   the rotary furnaces were anthracite coal and zinc-bearing  
9   material?

10      A   Correct.

11      Q   Could you provide some further detail on what  
12   sort of zinc-bearing material was fed into the rotary  
13   furnaces?

14      A   The zinc-bearing material would be purified zinc  
15   ore and recirculated zinc oxide from the combustion  
16   chamber in the cooling system.

17      Q   And now is that recirculated material what you  
18   referred to as residue?

19      A   Oh, no, no, no. No, it's zinc oxide. It's too  
20   crude for sale.

21      Q   Okay.

22      A   In other words, too -- too -- has too high an  
23   impurity level or something -- just is not a primary  
24   product.

1 Q Okay. And would the rotary furnaces produce any  
2 products or by-products other than zinc oxide?

3 A Sure. The residue that came out of the end of  
4 the kiln was the gangue from the ore, the ash from the  
5 coal and the unreduced coal and the unrecovered zinc.

6 Q And what did Eagle Picher do with the gangue  
7 from the ore?

8 A (Short pause) -- well, the residue as it came  
9 out, A, was water quenched and it -- as I said, it also  
10 contained unused coal. So it was stockpiled at some place  
11 in the plant.

12 Q To make sure I understand this, would -- you had  
13 said that the by-products were gangue from the ore, the  
14 ash --

15 A By --

16 Q -- ash from the coal, unreduced coal and  
17 unrecovered zinc. Were those materials consolidated?

18 A Well, no -- (short pause) -- consolidated?

19 Q In -- in the residue.

20 A That was the residue.

21 Q That -- that's --

22 A Those were the constituents of the residue, if  
23 you want to use a different term; okay?

24 Q Thank you. I --



1       A   Okay.

2       Q   And did Eagle Picher stockpile this residue in  
3   any particular place or places at the plant site?

4       A   Over the years it was piled in various and  
5   sundry places. Mostly, generally speaking, on the west  
6   side of the plant.

7       Q   When you say on the west side of the plant --

8       A   Well --

9       Q   -- could you --

10      A   -- that's -- that's west of the railroad tracks  
11   or west of the -- west of this road that runs north and  
12   south past the Wetherill building and -- and down here to  
13   the shop building. That would -- that would be the -- to  
14   the west, this way. Any place in this area.

15      Q   So you're indicating any place along the western  
16   side --

17      A   Of that road.

18      Q   -- of --

19      A   Yeah, basically, yeah.

20      Q   And so with reference to some of the labeling  
21   that's on that exhibit, could you indicate at least  
22   roughly how the -- the northern and southern extent of --  
23   of the area where residue could be stockpiled?

24      A   (Short pause) -- well, I can only refer to that

1 in general terms; but, in -- but, in general terms  
2 starting about where you've got RR-2 and going down to  
3 about where you've got RR1-4 as a southern boundary.

4 Q All right.

5 A That's in -- generally speaking, in that area.

6 Q All right. And were the operations of the four  
7 different furnaces different from each other in any ways?

8 A Say that again? Repeat --

9 Q The -- the operations of the four rotary  
10 furnaces, did they operate in different ways from a --  
11 from each, as compared to each other?

12 A Basically, number one and number two and number  
13 four were operated in a similar manner throughout their  
14 existence. The number three kiln was used for a multitude  
15 of different, varying operations over the period of time  
16 that it was there.

17 Q Was the residue from the number three furnace  
18 handled any differently than the residue from the other  
19 furnaces?

20 A Some of it, and I -- I would say from my -- this  
21 is a general knowledge, the majority of it is stockpiled  
22 in the area that you referred to as RR2-11.

23 Q And why do you say that?

24 A Oh, because that's where it -- that's where the

1 original residue pile was started by Eagle Picher; and, as  
2 I said, I -- I think that's where most of it went to.  
3 Don't ask me about the operation during Sherwin-Williams  
4 and -- 'cause I wasn't there most of the time and -- and  
5 I'm not at all sure and I didn't follow some of the  
6 operations that closely at Eagle Zinc days either, so I'm  
7 not sure what happened to all the residue from that  
8 operation. I just don't know.

9 Q Okay. And if I could direct your attention to  
10 the map again, to the building that's located -- or, the  
11 buildings that are located to the west of the mix area.

12 A Yes, those referred to as 44 and 45, yeah.  
13 These right here?

14 Q Right. And if I could ask you to --

15 A I'll circle them.

16 Q -- label those?

17 (Which was so done.)

18 A That's 44 and 45. That's where the carbon  
19 recovery plant was, crushing plant, carbon recovery plant  
20 was put by over the year.

21 Q And --

22 MR. BURKE: Could -- could we see that?

23 MR. KRUEGER: Sure.

24 MR. BURKE: Thanks.

1                    (It should be noted that  
2                    copies of said exhibit were  
3                    furnished for review to  
4                    Counsel.)

5       THE DEPONENT: See, I think that --

6       MR. KRUEGER: And could you tell me which of those  
7 two structures was the carbon recovery plant?

8       A    You know what -- (laughter) -- it was in the  
9 southern most building. So, I guess -- I guess that's --  
10 I guess that's 44, because I know 45 was the northern  
11 building, yes, and it was mainly a storage area.

12       Q    And --

13       A    The carbon -- yeah.

14       Q    Did Eagle Picher operate the carbon recovery  
15 plant?

16       A    Oh, yeah.

17       Q    And --

18       A    Invented it.

19       Q    And how did the carbon recovery plant work?

20       A    It was basically a two cell, Denver jig plant in  
21 which the coal was separated from the remainder of the  
22 rotary furnace residue.

23       Q    And so what -- what was the input -- or, what  
24 input was sent through the carbon recovery unit?

1       A   The rotary -- rotary residue, basically.

2       Q   All right.

3       A   And the product was -- was recovered anthracite  
4   that was recirculated in the charge.

5       Q   And were there any other products or by-products  
6   from the -- the carbon recovery plant?

7       A   Oh, there's -- certainly was. There was the  
8   so-called hutch or middling product out of the jig.

9       And -- yeah, and then a middling, as I recall. I'm not  
10   real familiar with the operation in the carbon recovery  
11   plant.

12      Q   Okay. Do you know what Eagle Picher would have  
13   done with the carbon plant hutch that was generated?

14      A   No.

15      Q   Do you recall if any of it would have been  
16   stored or accumulated on the plant property?

17      A   (Short pause) -- say that again?

18      Q   Do you recall whether any of the carbon plant  
19   hutch that Eagle Picher generated --

20      A   Eagle Picher generated --

21      Q   -- was stored or --

22      A   I--

23      Q   -- accumulated?

24      A   I'm sure there was some there, yes. The extent

1 of it, quantity, no idea.

2 Q Okay.

3 A No idea.

4 Q Do you know where it would have been placed?

5 A It would have been someplace in the southwest of  
6 the building where the carbon recovery plant was. Yes.

7 Q Would -- would that conform with the general  
8 area indicated on the map with CPH-9 and CPH-6?

9 (Short pause while certain  
10 exhibit was reviewed  
11 by the deponent.)

12 A Well, my memory would serve me only that it  
13 would be in the area of the CPH-9, and I have no idea  
14 about the exact location of it other than that was  
15 southwest of the building and that's where I recall it  
16 was.

17 Q All right. And did Eagle Picher manufacture  
18 other products at the Hillsboro plant besides zinc oxide?

19 A Manufacture other products -- (short pause) --  
20 Eagle Picher?

21 Q Correct.

22 A (Short pause) -- well, of course, we produced  
23 leaded zinc oxide, if -- if -- if that's a terminology  
24 that fits -- or, if that answers your question. Sure we

1 did. Up until 1957.

2 Q And where was that manufactured? What -- which  
3 equipment was used to produce the leaded zinc oxide?

4 A Well, we brought in white lead from another  
5 plant and blended it with our lead-free zinc oxide in the  
6 refinery building. Up until we ceased the production of  
7 it completely.

8 Q And were there any by-products or waste produced  
9 as a result --

10 A No.

11 Q -- from that mixing?

12 A Not from that, no, no. No.

13 Q And are you aware historically of other  
14 materials produced by Eagle Picher at the Hillsboro plant?

15 A Am I aware of --

16 Q (Nods head yes.)

17 A No, I don't know of anything else. Unless  
18 there's something subtle, hidden or -- of which I am not  
19 aware.

20 (Short pause while certain  
21 documents were reviewed  
22 by Mr. Krueger.)

23 Q Well, if we could turn back briefly to the  
24 rotary furnaces. Did those furnaces need to be cleaned

1 out periodically?

2 A Sure do.

3 Q And how was that done?

4 A Well, the cleanout was hardened slag and  
5 frequently required a jackhammer to break up the -- the  
6 solid slag so it could be removed from the kiln.

7 Q And was that work performed by Eagle Picher  
8 employees?

9 A Certainly.

10 Q All right. And do you recall where the -- the  
11 cleanout material -- or, what was done with the cleanout  
12 material after it was removed from the kilns?

13 A Well, first a determination was made as to  
14 whether or not there were enough zinc content in it to  
15 crush it and recirculate it through the charge; and, if it  
16 weren't further use -- use -- useable in that manner it  
17 was put in a pile someplace in the plant. And don't ask  
18 me what happened to it in the long-run 'cause I can't  
19 answer that question.

20 Q And how was the determination made whether it  
21 could be reused?

22 A Zinc content. Zinc content, yeah.

23 Q And how was the zinc content determined?

24 A By assay in the laboratory.



1 Q And did Eagle Picher have a laboratory on site  
2 to perform those assays?

3 A We did.

4 Q I'll show you a document that's been previously  
5 marked as Government Exhibit 2.

6 (It should be noted that said  
7 exhibit was furnished to the  
8 deponent for review.)

9 A Okay.

10 Q And I'll ask if you recognize that form?

11 A Yeah, it's a typical laboratory sheet containing  
12 the assays.

13 Q And is this the sort of record that Eagle  
14 Picher's lab would prepare to describe the results of an  
15 assay?

16 A Yeah, it's typical.

17 Q And do you know how that form would be  
18 prepared -- or, more particularly, who -- who would  
19 prepare that -- that form?

20 A Well, an analyst in the -- in the laboratory.

21 Q And would that have been --

22 A He --

23 Q Oh, I'm sorry.

24 A The form itself might -- might well have been

1 filled out by the chief chemist. But could be he -- could  
2 have been that individual or it could have been the -- the  
3 analyst himself.

4 Q Okay. And would that form have been filled out  
5 at the time the assay was performed?

6 A Oh, within a few days.

7 Q And what use would be made of the assay report?

8 A (Short pause) -- that's such a generalized  
9 question --

10 Q Okay, who -- who --

11 A -- that I don't recognize an answer for that  
12 one.

13 Q All right. Who -- who would make use of an  
14 assay report?

15 A Well, everybody in the plant. The plant manager  
16 would -- might look at -- might look at it. The plant  
17 superintendent would certainly look at it. (Short  
18 pause) -- the foreman would -- would look at them. Almost  
19 every -- anybody that had to do with the operation would  
20 look at the -- would look at assay sheets over a period of  
21 time.

22 Q And -- and why was the information on the assay  
23 sheets important to Eagle Picher?

24 A Well, these results are the very basic tools of

1 operation of the plant, period.

2 Q And so it was important to Eagle Picher that the  
3 information on those forms be complete and accurate?

4 A (Short pause) -- well, of course, accuracy is  
5 always important in laboratory. So I think that's mildly  
6 self-evident.

7 Q In -- in looking specifically at -- at the  
8 results shown on those assay reports, would you say in  
9 your experience those are typical results for the chemical  
10 constituents of the materials Eagle Picher generated?

11 (Short pause while said  
12 exhibit was reviewed by the  
13 deponent.)

14 A Well, in brief review I don't see anything  
15 unusual or strange about the answers.

16 Q Okay.

17 A Normal.

18 Q Okay. Going back to my questions about other  
19 products that Eagle Picher may have --

20 A Yes.

21 Q -- have -- have produced at the plant --

22 A Yes.

23 Q -- site. I'm gonna --

24 A What are we fishing for?

1 Q I'm gonna show you a document marked as  
2 Government Exhibit 6.

3 (Government Exhibit  
4 Number 6 was marked for  
5 identification.)

6 MR. KRUEGER: And I'm gonna share copies with  
7 Counsel.

8 (It should be noted that  
9 copies of said exhibit were  
10 furnished to Counsel.)

11 Q And I'll ask you if -- if that may refresh your  
12 recollection as to other operations Eagle Picher had at  
13 the site.

14 (It should be noted that said  
15 exhibit was furnished to the  
16 deponent for review.)

17 MR. BURKE: Is there a second page to this exhibit?

18 MR. KRUEGER: It's on the back.

19 MR. BURKE: Oh, I keep forgetting the government  
20 saves paper.

21 (Short pause while said  
22 exhibit was further reviewed  
23 by the deponent.)

24 THE DEPONENT: Okay, now I've seen this. Now what --

1     what's -- what's the question or what's --

2           MR. KRUEGER: Does --

3           A    -- what's the point? I don't even understand  
4     what we're talkin' about.

5           Q    Well, I -- the only question is whether that  
6     refreshed your memory on -- on other products Eagle  
7     Picher --

8           A    On other products -- (short pause) -- no.

9           Q    All right. Well, take it back from you then.

10          A    I don't understand the question, I guess.

11          Q    No, I'm -- I'm just trying to make sure I have  
12     explored your memory on it; and, if that -- if that didn't  
13     do anything, that's just fine.

14          A    Yeah, I'm gettin' old.

15          Q    Now you've referred to several different areas  
16     where Eagle Picher accumulated materials out in the plant  
17     yard; and, do you know if those materials piled in the  
18     yard would have contained lead?

19          A    (Short pause) -- when you say contained lead, I  
20     could say that I never heard of a zinc product that didn't  
21     contain lead. Now let's talk about the degree. Yes. So  
22     they all contain lead. Okay. Now whether they're talkin'  
23     percents, parts per million or et cetera, et cetera --  
24     that's another question, of course.

1 Q And let me ask, sir, the -- first, the simple  
2 question of how do you know they would contain lead?

3 A Because I've never seen a zinc product that  
4 didn't.

5 Q Okay. Do you know if the material in the --  
6 accumulated out in the yard would have contained cadmium?

7 A The same answer applies. It's a matter of  
8 degree. Cadmium and zinc after all exist together in  
9 nature and so you never get -- you never get rid --  
10 completely rid of it. If you want to go out far enough in  
11 the -- in the assay chain you can probably always find  
12 some.

13 Q Do you know if the material that was accumulated  
14 in the yard would have contained iron?

15 A Absolutely.

16 Q And how do you know that?

17 A For the same reason. For the same reasons.  
18 Same reasons.

19 Q Do you know if the materials accumulated in the  
20 yard would have contained nickel?

21 A I don't know that because nickel is something  
22 that we usually didn't concern ourselves with and so we  
23 don't have too much knowledge of it.

24 Q Okay. Do you know if the materials that Eagle

1 Picher would have accumulated -- accumulated in the yard  
2 would have contained arsenic?

3 A Not if we could help it because we intended to  
4 eliminate arsenic from our oxide and our processes to  
5 the -- to the best metallurgic degree possible.

6 Q And how did you attempt to do that?

7 A In the case of the American process operation in  
8 which we purified the ore, we drove it off during the  
9 purification process at the -- at the plant down in Kansas  
10 where we prepared our feed.

11 Q Okay. And the American process is the process  
12 used in the rotary furnaces?

13 A By the rotary furnaces, yes.

14 Q Now you indicated earlier that Sherwin-Williams  
15 purchased the property in 1980. Do you recall whether  
16 Sherwin-Williams did any evaluation of the site prior to  
17 purchase?

18 A I know that they sent some people in to look at  
19 certain things and -- and, of course, some of the  
20 Sherwin-Williams people came. But my memory doesn't  
21 really serve me any particular visit. I just don't  
22 remember.

23 Q All right. Do you recall meeting with the  
24 Sherwin-Williams people before their purchase?

1       A   Certainly.  Sure.

2       Q   And do you remember where that meeting took  
3   place?

4       A   Oh, I went down to Coffeyville and talked to  
5   Frank Butler and other persons.

6       Q   And --

7       A   Yes, prior to the purchase, yes, uh-huh.

8       Q   And who is Frank Butler?

9       A   He was the operations manager of the -- I guess,  
10   eventually what was called chemicals division.

11      Q   And he worked for Sherwin-Williams?

12      A   Yes, yes, yeah, yeah, yes.  I believe gentleman  
13   by the name of Jim Mack (phonetic), if my memory serves me  
14   correctly, was the manager of the division and Frank was  
15   his operations manager, I believe.  Title -- title-wise, I  
16   believe.

17      Q   Do you recall Sherwin Williams' representatives  
18   visiting the site before Sherwin purchased it?

19      A   Yes, I said before that I -- I know there were  
20   some visits made both by Sherwin-Williams people and some  
21   other people that Sherwin-Williams asked to come in.  But  
22   I don't remember the -- I have no memory of the specific  
23   times or dates or persons really.

24      Q   All right.



1 (Government Exhibit  
2 Number 7 was marked for  
3 identification.)

4 Q I'll show you a document I've marked as  
5 Government Exhibit 7.

6 (It should be noted that said  
7 exhibit was furnished to the  
8 deponent for review.)

9 MR. KRUEGER: I'm sharing copies with Counsel.

10 (It should be noted that  
11 copies of said exhibit were  
12 furnished to Counsel.)

13 A Well, I guess that's one of the guys that came,  
14 huh? (Laughter) --

15 (Short pause while said  
16 exhibit was further reviewed  
17 by the deponent.)

18 A They ran selenium -- that's interesting.

19 Okay, what's the --

20 Q I--

21 A -- what --

22 Q Do you recall meeting Mr. Edgerley?

23 A I remember that name; but, frankly, I don't  
24 recall -- I don't recall the meeting per se. No, I really

1     don't.

2       Q    Okay.

3       A    That's -- that's been awhile ago.

4       Q    Is the description --

5       A    Like, 27 years. (Laughter) -- come on, you tell  
6     me what you were doin' 27 years ago.

7       MR. NOVAK: I wasn't born.

8       THE DEPONENT: Huh?

9       MR. NOVAK: That's the first lie --

10      MR. KRUEGER: Is the description of the meeting in  
11     here consistent with your general recollection of the  
12     meeting you had at -- on site with Sherwin-Williams'  
13     representative?

14      THE DEPONENT: Well, as I said, I -- I know people  
15     came by and talked but I don't remember the specifics of  
16     them.

17      Q    All right.

18      A    Tom, I wish I did, but I don't. I wish I did.

19      Q    I'd like to direct your attention to the second  
20     paragraph on Page 1.

21      A    Second -- okay.

22      Q    And in particular, there's a statement that  
23     says: There is one small stream which runs through the  
24     property that dissects the northeast corner but does not

1 flow near any industrial operations. And I would like to  
2 ask if you could indicate on the map the general location  
3 of the stream that's referenced there?

4 A (Short pause) -- well, it's in this general area  
5 here, to the -- to the east of the muffle building and --  
6 (short pause) -- it was kind of a little -- little  
7 depression that ran -- ran -- ran toward the southeast and  
8 then across the road and wound its way around down to  
9 the -- eventually -- eventually to the old Lake Hillsboro,  
10 yeah. Yeah.

11 Q Is --

12 A What about it?

13 Q Is there any stream associated with the pond  
14 that's indicated on the southwest corner of the plant map?

15 A You mean this -- this?

16 Q Correct.

17 A Yeah. Well, yes, the overflow from that runs  
18 down and gets into the little creek that runs north  
19 through Hillsboro. Yeah, sure.

20 Q So the --

21 A Yeah.

22 Q -- stream from the pond runs --

23 A West.

24 Q -- west?

1       A   West, yeah.

2           So we had that -- that area sort of drained, if  
3   you wanted to put it that way, the west half of the plant.

4       Q   Okay.

5       A   And the north plant -- the north part of the  
6   plant's pretty flat and there's just a little -- sort of a  
7   little -- little -- (short pause) -- yeah, couldn't call  
8   it a stream, just a low spot in -- in it, and then this  
9   little area that runs off to the east. Yeah.

10      Q   Okay. Now how would you describe the physical  
11   condition of the plant at the time Sherwin-Williams  
12   acquired it?

13      A   (Short pause) -- ask that question again?

14      Q   How would you describe the physical condition of  
15   the plant when Sherwin --

16      A   Physical condition of the plant? On a scale  
17   or -- average.

18      Q   And specifically, at the time Sherwin-Williams  
19   acquired the plant would the residue material we've  
20   discussed have been accumulated in the plant yard?

21      A   Again now? What --

22      Q   When Sherwin-Williams acquired the plant --

23      A   Yes.

24      Q   -- were the residue materials we've been

1 discussing present in the plant yard?

2 MR. BURKE: Object --

3 THE DEPONENT: Yes.

4 MR. BURKE: Object to the form.

5 THE DEPONENT: Were the residues?

6 MR. KRUEGER: All right --

7 A Why, sure. There was an inventory of muffle  
8 dross there, and there was nominal inventory I'm sure of  
9 other materials. I don't have any specific --  
10 Sherwin-Williams' records would probably show that,  
11 specifically what was there. Certainly put them down in  
12 the book.

13 Q So do you recall whether there would have been  
14 kiln cleanout materials present?

15 A Well, I'm sure -- I don't know that. That,  
16 that's -- those -- those are too detailed questions for  
17 my -- I won't -- I won't know that. I don't know of  
18 anything unusual, I'll put it that way. I don't recall of  
19 any unusual circumstances when we transferred the property  
20 with the possible exception is that we had a pretty big  
21 accumulation of muffle dross.

22 Q Okay.

23 A That I recall. I don't recall anything else  
24 that stands out in my mind at this -- at this moment.

1       Q   Okay. Now you indicated that at the time  
2   Sherwin-Williams acquired the property you were serving as  
3   general manager?

4       A   Well, I'd been demoted slightly before that,  
5   but --

6       Q   Oh --

7       A   Then that's --

8       Q   Well, I didn't mean to put words in your mouth.

9       A   Hey, I've been in trouble every place, many  
10   times -- (laughter) --

11      Q   What was your --

12      A   Nothing unusual -- (laughter) --

13      Q   What was your position with Eagle Picher when  
14   Sherwin-Williams -- Williams acquired the Hillsboro plant?

15      A   Officially, they gave me some made-up title. I  
16   don't even know what it was.

17      Q   Just to -- but --

18      A   I'd had -- I'd had a little argument with some  
19   of the Eagle Picher people.

20      Q   Okay.

21      A   (Laughter) -- and sometimes managerial arguments  
22   turn out to be pretty serious, yeah. Okay?

23      Q   And was that argument associated with the  
24   operation of the Hillsboro plant?

1       A   In the broad sense, I suggested that they sell  
2   the plant.

3       Q   And when they did, in fact, sell the plant --

4       A   Uh-huh.

5       Q   -- did you continue to work for the new owner,  
6   Sherwin-Williams?

7       A   Uh-huh, I agreed to work for -- with  
8   Sherwin-Williams to help them through the transition  
9   period. That's correct.

10      Q   And what was your position with  
11   Sherwin-Williams?

12      A   I believe -- I think they invented a title as  
13   well; and, if I recall correctly -- and this might be  
14   subject to question, I think I was called director of  
15   development. I believe that's what it was.

16      Q   And do you recall what you did for  
17   Sherwin-Williams --

18      A   In --

19      Q   -- after they acquired the site?

20      A   A little bit of everything. And that was --  
21   that was by agreement.

22      Q   Okay.

23      A   I met with their salespeople. I made some calls  
24   with some of their salespeople. See, their sales manager

1 was Lee Fuller (phonetic) and he was an ex-Eagle Picher  
2 guy whom I'd worked with at Eagle Picher. And so I worked  
3 with Lee. Of course, Frank. Peter Meehan (phonetic).  
4 Frank Butler, I believe, I'm not sure of the title but  
5 I -- I think fellow by the name of Peter Meehan was given  
6 sort of a title in charge of the zinc oxide business or  
7 something, and I don't -- I don't really recall --

8 Q Okay.

9 A -- the gory details. Something like that.

10 Q Did you have any responsibilities for overseeing  
11 the Hillsboro plant operations with Sherwin-Williams?

12 A Operation-wise?

13 Q Correct.

14 A No, no, they sent in -- I think Ray Restler  
15 (phonetic), if I recall correctly, was the fellow that was  
16 made the immediate plant manager under Sherwin-Williams.

17 Q Did you advise Sherwin-Williams with respect to  
18 operation of the Hillsboro plant?

19 A I -- that -- that was my agreement with them,  
20 was to help in any way, manner in which I could for -- I  
21 spent time again with the salespeople. I spent some time  
22 purchasing materials, as I recall. Don't know that I was  
23 particularly successful, but I -- I know I worked on that.

24 Q And at that time were you located in



1 Sherwin-Williams' offices in Hillsboro?

2 A Yeah.

3 Q Okay. And did you observe Sherwin-Williams'  
4 operation of the plant after they took ownership?

5 A For the period of time that I worked for them,  
6 yes.

7 Q And did you observe any differences in the way  
8 Sherwin-Williams operated the plant from the way Eagle  
9 Picher had operated the plant?

10 A (Short pause) -- yes.

11 Q What differences do you recall?

12 A (Short pause) -- well, since -- since they sent  
13 their manager in, they sent in an engineering fella to do  
14 things, I'd say that -- that they did it their way. And,  
15 yes, wouldn't necessarily agree or disagree with it, it's  
16 just different.

17 Q Sherwin-Williams continue to operate the muffle  
18 furnaces?

19 A Yes, I believe so, yeah. Yeah.

20 Q Did Sherwin-Williams operate the muffle furnaces  
21 in the same fashion Eagle Picher did?

22 A For the period of time that I was there, which  
23 was there eight or nine months. I don't recall anything  
24 different or I don't recall hearing anything different. I

1 didn't go out -- I didn't go out in the plant and do any  
2 operation things under Sherwin-Williams at all.

3 Q Did Sherwin-Williams continue to generate muffle  
4 dross from the muffle furnace?

5 A If they ran the furnace they had to generate  
6 some dross. Yeah, you couldn't -- you couldn't do  
7 otherwise.

8 Q Did Sherwin-Williams continue to run the rotary  
9 furnaces at the Hillsboro plant?

10 A (Short pause) -- see, that's an area that I'm  
11 not too particularly aware of. I know that they ran  
12 number two, but I don't recall exactly when or for how  
13 long or -- I really don't.

14 Q Uh-huh.

15 A So I -- that's all I can say. I know they  
16 operated it, period.

17 Q Do you recall if they operated number three?

18 A I don't really know.

19 (Short interruption occurred  
20 when someone entered the  
21 room.)

22 MR. KRUEGER: Can we go off the record.

23 (Off the record discussions.)

24 MR. KRUEGER: Back on the record.

1           Do you know if Sherwin Williams continued to  
2   operate the recovery plant?

3       A   I really don't know. I -- I just don't know.

4       Q   Now you indicated that you -- you did remember  
5   Sherwin-Williams operating rotary furnace number two?

6       A   I'm not even -- (short pause) --

7       Q   Do you -- would they have operated that furnace  
8   in the same way Sherwin -- Eagle Picher did?

9       A   (Indicating with hands) -- peace.

10      Q   I'm sorry?

11      A   No idea. I don't -- see, I was only there the  
12   first eight -- six, eight months they had the plant and I  
13   simply don't -- the furnace wasn't operating when they  
14   took the plant over and I'm reasonably sure they started  
15   it up but I can't -- I -- I don't know any details.  
16   Sorry, I just can't -- I can't be more definitive.

17      Q   Are you familiar with any cleanup activities  
18   that Sherwin-Williams performed at the site?

19      A   The only thing of which I am aware was the fact  
20   that they sold -- basically, sold the inventory of the  
21   muffle dross, period. That's all I know.

22      Q   And could you tell me again when your service  
23   with Sherwin-Williams terminated?

24      A   Well, I was terminated on the 1st of July of

1 1981 and I was given vacation pay. So I think I got paid  
2 up until the first part of August. I don't -- frankly, I  
3 don't remember the exact date.

4 Q And do you recall when T.L. Diamond purchased  
5 the Hillsboro plant from Sherwin-Williams?

6 A Yes, I do.

7 Q And when was that?

8 A The date of purchase was March the 15th of '84.

9 Q And how did you become familiar with T.L.  
10 Diamond's --

11 A Well --

12 Q -- purchase of the property?

13 A Mr. Diamond and I are long-time business  
14 associates and he had an option on the plant when Eagle  
15 Picher owned it and let the option expire; and, then when  
16 Sherwin-Williams put the plant up for sale, why, he took  
17 it under consideration again and called me and told me  
18 that that's what he was gonna do.

19 Q And did you provide Mr. Diamond with any advice  
20 concerning purchase of the plant?

21 A In general way, yes.

22 Q What advice did you give him?

23 A Oh, I have no idea -- (laughter). Mr. Diamond  
24 and I have had many telephone conversations over a period

1 of some 40 years. So don't ask me about a specific one.

2 That would be pretty hard for me to recall.

3 Q Did you --

4 A A few I -- a few I could give you some  
5 definite -- yeah, yes. He called me in the summer of  
6 eighty -- no -- '83, yeah, yeah, and said that he was  
7 considering purchase. Yes, uh-huh, sure did.

8 Q Did Mr. Diamond ask you to investigate the  
9 current conditions at the Sherwin plant?

10 A No. No.

11 Q Did you return to the Hillsboro plant after T.L.  
12 Diamond purchased it?

13 A I did.

14 Q And were you employed at the T.L. Diamond --

15 A As a --

16 Q -- plant facility?

17 A -- consultant. As a consultant.

18 Q Do you recall how -- how soon after the purchase  
19 date you first returned to the plant?

20 A Yeah, the next day.

21 Q How would you describe the physical condition of  
22 the plant buildings at that time?

23 A (Short pause) -- same, average. Nothing  
24 particular had happened that I can recall.

1       Q   Do you recall if there were rotary furnace  
2   residues accumulate -- or, stockpiled on the site at the  
3   time T.L. Diamond took over the plant?

4       A   There was -- there certainly was some there,  
5   yes.

6       Q   Do you recall where those residues were located?

7       A   Over on the west side of the plant, and I will  
8   go no further than that.

9       Q   In the same general area you indicated --

10      A   As I --

11      Q   -- before?

12      A   -- indicated before. Stuff on the west side of  
13   the road and I don't know what pile was where and who  
14   belong to who and -- I -- I just simply don't know.

15      Q   Now in your earlier testimony I believe you did  
16   identify a somewhat more specific location for --

17      A   The number three.

18      Q   -- the residue pile from number three.

19      A   Absolutely, sure did. Stick with it. Stick  
20   with that one.

21      Q   Do you recall if the residue pile from furnace  
22   number three was present at the time T.L. Diamond took  
23   over the plant?

24      A   There was certainly a pile there, yes. Sure

1 was.

2 Q When T.L. Diamond purchased the property did  
3 they continue to operate the muffle furnace at the site?

4 A No.

5 Q Did they operate any of the rotary furnaces?

6 A Yes. Number two and number three.

7 Q Did they operate those furnaces in the same  
8 manner in which Eagle Picher operated them?

9 A (Short pause) -- in the case of number two, yes.

10 In the case of number three, I can't really tell you. I  
11 really can't.

12 Q And would T.L. Diamond have generated the  
13 same --

14 A From number -- same residues --

15 Q -- same --

16 A -- as number two, yes.

17 Q -- by-products --

18 A Yes.

19 Q Would they have generated the same residues and  
20 by-products from furnace number three?

21 A That --

22 MR. IX: Object to the --

23 THE DEPONENT: -- I don't know.

24 MR. IX: -- form of the question.

1 THE DEPONENT: That I do not.

2 MR. KRUEGER: Did T.L. Diamond operate the carbon  
3 recovery plant when they acquired the Hillsboro site?

4 A Eventually, but I don't -- yeah, it was moved  
5 and modified. But I -- frankly, I wasn't much involved in  
6 that.

7 Q Do you know what products or by-products T.L.  
8 Diamond generated from the carbon recovery operation?

9 A They'd have to be the same. Talk about the same  
10 thing.

11 Q Okay.

12 A Same operation. The same jig was there, so  
13 you're gonna get the same products.

14 Q Do you know what T.L. Diamond did with the hutch  
15 generated from --

16 A No idea. Absolutely no -- I had no association  
17 with that -- with that during the T.L. Diamond operation.

18 Q And I apologize if I asked this already --

19 A That's quite all right.

20 Q -- I want to make sure I don't miss it.

21 Do you recall -- do you recall what T.L. Diamond  
22 did with the residues from rotary furnace number two?

23 A What they did with them?

24 Q Right.



1       A   (Short pause) -- only in the general sense that  
2       they were stockpiled and no doubt some of it was run  
3       through the carbon recovery plant, but I can only say that  
4       in generalities. Again, I didn't follow the -- the day by  
5       day operations.

6       Q   Sure.

7       A   So I can't -- I can only speak in generality.

8       Q   Do you know what T.L. Diamond did with the  
9       cleanout material --

10      A   Same --

11      Q   -- from the --

12      A   -- same answer. I have no idea specifically.

13      Q   Are you familiar with the material that remains  
14      accumulated on the Hillsboro site today?

15      A   (Short pause) -- only -- only in a casual  
16      manner. I've walked around a few times and looked at it,  
17      but that's all.

18      Q   What has been the nature of your job as a  
19      consultant to T.L. Diamond?

20      A   (Short pause) -- well, I'd say basically I tried  
21      to give a hand as to acquisition of raw materials for the  
22      number two rotary furnace. That, plus again advice on the  
23      sale side since I knew that -- original customers and all.  
24      So I advised the sales manager on several occasions and

1 hopefully helped Mr. Bangor on occasion.

2 Q Directing your attention to the map that's  
3 marked as Government Exhibit 5. In the southwest corner  
4 of the site near the pond there are a couple of  
5 accumulation areas identified as RR-1 and RR-2.

6 A Yes.

7 Q Are you familiar with any materials that may  
8 have been accumulated in that area?

9 A You talkin' about long-term?

10 Q Correct.

11 A Yes, that was the original area -- the area  
12 where the original residue from the zinc metals -- zinc  
13 metal furnaces was stored. And there were large -- there  
14 was a large tonnage of residue from the zinc metal  
15 furnaces there when I first came to the Hillsboro plant,  
16 yes.

17 Q And -- and do you recall when the zinc metal  
18 furnace operated?

19 A Yeah, from the time the plant was built in '13  
20 or '14 until 1935.

21 Q And at that point what happened with the --

22 A Business simply was so poor during the  
23 depression years that the zinc metal plant was shut down,  
24 and acid plant. There was an acid plant and zinc metal

1 plant. Both were shut down in 1935.

2 Q And so given those dates, was that material  
3 generated by Eagle Picher?

4 A Absolutely. Well, no, no, there was a  
5 predecessor owner of the plant called Robert Lanyon.  
6 Robert Lanyon Zinc Company built the plant and Eagle  
7 Picher bought it from Robert Lanyon. Lanyons operated it  
8 for the first five years of its life. So the residues  
9 that were there, no doubt from Robert Lanyon Zinc Company  
10 plus Eagle Picher.

11 Q And were those materials still present there  
12 when Sherwin-Williams acquired the property --

13 A No, no.

14 Q -- the residue materials?

15 A From the zinc --

16 Q Correct.

17 A -- furnaces?

18 No, Eagle Picher shipped those residues -- or,  
19 the last of them were shipped down to our Henryetta,  
20 Oklahoma plant for recovery of the zinc and germanium  
21 content. Those shipments probably ended up in the -- in  
22 the 1950s, but I don't remember the exact -- the exact  
23 period of time or exactly -- (short pause) --

24

1                   (An off the record discussion  
2                   was held between Mr. Krueger  
3                   and Mr. Novak.)

4       Q   In the southwest corner of the map there's --  
5       there's a pond shown there?

6       A   Yes.

7       Q   Do you know if that is a man-made pond?

8       A   Essentially man-made, yes. Back when the plant  
9       was built.

10      Q   And what was used to create that pond?

11      A   There was a dam at the property line, so that  
12      the water could be impounded and it was used for cooling  
13      of the zinc furnaces.

14      Q   And do you know what material was used to  
15      construct the dam?

16      A   Just dug out -- that's pretty solid clay back in  
17      that part of the property. And I think they just dug a  
18      hole and built a dam. I don't know, it was -- first time  
19      I saw the plant it was fairly good size pond -- pond and  
20      30, 40 feet deep and so it was -- so I was advised. I  
21      don't know. I didn't swim in it, so I don't really know.

22      Q   And -- and was the pond subsequently drained?

23      A   Yes, it was drained by Eagle Picher because the  
24      legal department decided it was a lia -- community

1 liability. And so we order -- were ordered to cut the dam  
2 down and drain the pond, which we did. Again, probably in  
3 the '50s.

4 Q And that was done by breaching the dam?

5 A (Nods head yes.)

6 MR. KRUEGER: All right, what I would suggest, if --  
7 if you don't mind, if we want to take just a five minute  
8 break.

9 THE DEPONENT: Fine idea.

10 (A short recess was taken.)

11 MR. KRUEGER: All right, are we ready to start again?

12 I've got just one more quick thing I wanted to  
13 cover and then we'll turn it over to Mr. Burke and Mr. IX.

14 THE DEPONENT: Yeah, good -- 'cause I'm runnin' down.

15 Q You had testified before that the residue from  
16 furnace -- rotary furnace number three was -- was  
17 segregated from the other rotary residue. Do you know why  
18 that is?

19 A Well, yes, because I'm the guy that started it.  
20 Since we were -- since we were runnin' the muffle dross  
21 through the furnace then the residue was not like the  
22 rotary residue at all and so it was just a simple matter  
23 of keepin' them separated. That's all, plain and simple.

24 Q And when you say we, is -- which company is that

1 referring to?

2 A Eagle Picher. Yeah, sure.

3 Q Was there any significant difference in the  
4 constituents in -- in the residue from furnace number  
5 three?

6 A Yes, because again you had different types of  
7 feed material going into the furnaces and so you had  
8 the -- you had some excess carbon, but probably not as  
9 much, and then you had -- whatever gangue material again  
10 was -- was in the feed to the -- to the number three  
11 furnace would be different from the material that was in  
12 number two furnace, for example. Yeah, yes.

13 Q Okay.

14 A Yes. So that's why we kept it separated. And  
15 specifically, we kept it separated because it had some  
16 copper in it; and, we always felt that sooner or later  
17 this pile would be worth something for copper. So it was  
18 a simple matter, that's -- that was the original reason  
19 for keeping it segregated.

20 Q And was there ever a market for the copper in  
21 that pile?

22 A Not during the -- not during the time that Eagle  
23 Picher owned the plant.

24 Q Was there a market for it during --

1       A   Well, I won't -- I won't comment about that  
2   since then because I don't know. I mean, I wasn't --  
3   (short pause) --

4       Q   So did the issue of whether there was a market  
5   for it ever come up in your consultations with T.L.  
6   Diamond?

7       A   Well, I told -- yeah, I told Ted that's why it  
8   was there originally, and so I -- that's as far as it  
9   went. As far as I know.

10      Q   So T.L. Diamond wasn't able to identify a market  
11   for the rotary number three residue?

12      MR. IX: I object to the form of the question.

13      THE DEPONENT: Yeah, I -- well, I couldn't answer the  
14   question anyway. It's irrelevant.

15      MR. KRUEGER: You -- you don't know the answer to the  
16   question?

17      MR. IX: Same objection.

18      THE DEPONENT: No, I don't know the answer. No.

19      MR. KRUEGER: Okay. All right.

20           Well, that's all I wanted to cover. And I very  
21   much appreciate your patience in working through --

22      THE DEPONENT: Peace.

23      MR. KRUEGER: And I -- as I understand it, I think  
24   now Mr. Burke will --

1 THE DEPONENT: Okay.

2 MR. KRUEGER: -- ask some questions.

3 THE DEPONENT: We'll hear from Mr. Burke.

4 MR. BURKE: Hello, Mr. Dodd. I'm Kim Burke --

5 THE DEPONENT: Hi.

6 MR. BURKE: -- and I represent the Sherwin-Williams  
7 Company.

8 THE DEPONENT: Thank you.

9 EXAMINATION

10 BY MR. BURKE:

11 Q You had mentioned the name of the Robert Langum  
12 (sic) Zinc --

13 A Robert Lanyon. Just to get it spelled right --  
14 L-a-n-y-o-n.

15 Q L-a-n --

16 A Y-o-n.

17 Q Y-o-n.

18 A Lanyon Brothers was a zinc company that had  
19 three zinc plants back in the time of World War I. This  
20 was their last one. They had one in Kansas and one in --  
21 at least one in Kansas and one in Oklahoma, I think -- I  
22 think, and then they built this one to supply zinc for  
23 brass -- for World War I brass people. Get -- get you a  
24 little history.



1       Q   During what years did Robert Lanyon Brothers  
2   operate at this property?

3       A   They -- they built it and operated it until they  
4   sold it to Eagle Picher in 1919. And --

5       Q   When did they build it?

6       A   Oh, the dates been argued around a little bit,  
7   but '13 or '14. I was thinkin' we had a plaque around  
8   here. '13 or '14. Before the -- right at the beginning  
9   of World War I.

10      Q   What type of furnaces did Robert Lanyon Brothers  
11   operate at the plant?

12      A   The old horizontal zinc furnace.

13      Q   And what type of feedstock did they use for  
14   those types of furnaces?

15      A   Zinc ore and coal. The ore came from the old  
16   TriState District down at Joplin.

17      Q   And I think you mentioned the zinc from that  
18   plant was used for brass manufacture for World War I --

19      A   Sure.

20      Q   -- is that right?

21      A   Uh-huh. Cartridge brass, yeah.

22      Q   So it was for the cartridges for -- the  
23   ammunition for the allied forces?

24      A   Right, that's right. Yeah, see, cartridge brass

1 is 70 copper -- common 70/30, copper, zinc.

2 Q Do you know if Robert Lanyon Brothers Zinc  
3 Company still exists under any name today?

4 A No. I can tell you they absolutely do not.

5 Q Okay, what happened --

6 A And haven't existed. They disappeared  
7 completely in the -- oh, I think -- yeah, I think they  
8 sold out after World War I and disappeared. Because I  
9 know their plant in Kansas was also closed long about --  
10 right after the war.

11 Q Do you know who they sold to?

12 A No, no idea. No, no idea about the --

13 Q Where was their plant in Kansas located?

14 A Outside of Bartlesville. Yeah.

15 Q That was in Oklahoma, isn't it? Bartlesville?

16 A Yeah, Bartlesville is in Oklahoma. Oh, the  
17 Kansas plant -- dag-gum, I don't remember, I don't know.  
18 I can't answer that. I don't know.

19 Q You mentioned that you served in a consultancy  
20 capacity with T.L. Diamond. When did you begin and end  
21 that consultant period?

22 A (Short pause) -- well, monetarily speaking, from  
23 March the 15th of '84 until they closed the plant the 31st  
24 of March of '03.

1           (Indicating to Mr. Bangor) -- am I right, Dean?

2           MR. BANGOR: Yeah, that's about -- it -- that's when  
3 they closed it.

4           THE DEPONENT: Yeah, yeah.

5           MR. IX: (Indicating to Mr. Bangor) --

6           MR. BURKE: And non-monetarily --

7           THE DEPONENT: Oh --

8           Q    -- how long --

9           A    Non-monetarily, about 25 years before. We'd  
10 known each other for a long time.

11          Q    To whom did you report in -- when you were a  
12 consultant?

13          A    Me.

14          Q    Yeah.

15          A    Me.

16          Q    Oh, you reported to yourself?

17          A    That's what I'm talkin' about. Sure.

18          Q    You were a consultant to yourself.

19                I'm sorry, here's my question. You -- you acted  
20 as a consultant?

21          A    Yes.

22          Q    To whom -- who were you consulting? Who did you  
23 report to?

24          A    (Short pause) -- well, I -- I -- I don't

1 understand the question. I had -- (short pause) -- by way  
2 of further explanation, I had a consulting contract with  
3 Pacific Smelting Company in Torrance, California from the  
4 time I left Eagle Picher until I quit my consultancy with  
5 Pacific Smelting and went to work with Ted.

6 Q Okay. When you went to work with Ted, when you  
7 got your checks that paid you --

8 A Well --

9 Q -- who issued the checks?

10 A Well --

11 MR. IX: Object to the form of the question. It's  
12 vague.

13 THE DEPONENT: I had a formal -- not formal, a  
14 handshake agreement with Ted Diamond specifically when he  
15 bought the plant here in Hillsboro.

16 MR. BURKE: What were the terms of that agreement?

17 A The terms of the agreement?

18 Q What did you agree --

19 A It was a handshake.

20 Q Yeah. And what did you agree to do?

21 A Help him out.

22 Q Okay. Did he agree to pay you?

23 A Yes.

24 Q Okay, how much?

1       A   I don't think that's germane.

2       Q   Okay. I know you don't think it's germane --

3       A   It's none of your business. It's none of your  
4 business what he paid me.

5       Q   Well, you know, unfortunately we're here today  
6 to try and get some answers to questions --

7       MR. IX: But not to those questions.

8       MR. BURKE: Okay.

9       MR. IX: This is the same objection I raised in the  
10 earlier deposition. I think it's going far afield --

11       MR. McCONNELL: It's noted --

12                   (The reporter requested  
13 clarification when more than  
14 one person was talking at the  
15 same time.)

16       MR. IX: I have an objection to this line of  
17 questioning.

18       MR. BURKE: Okay.

19               When did you -- did you ever stop consulting  
20 with Mr. Diamond?

21       THE DEPONENT: Yeah, when he closed the plant. Yeah.

22       Q   Okay. Have you consulted with Mr. Diamond since  
23 1983 in any capacity?

24       A   You mean '03?

1 Q '03, I'm sorry -- '03. Thank you.

2 A No, I've just talked to him a few times and --  
3 personally, how -- how you feelin'. After all, I know his  
4 wife and kids and he knows my wife --

5 Q Okay.

6 A -- who's deceased. So we've talked personally  
7 because we have personal things as well as business  
8 things.

9 Q You mentioned in your prior testimony when  
10 questions were asked by Mr. Krueger that you had a  
11 business relation -- you were in business relationships  
12 with Mr. Diamond?

13 A Oh, that's what I meant.

14 Q Okay.

15 A When we -- he acted -- he -- he sent me a check,  
16 and so I call that a business relationship.

17 Q All right. So you were paid for your  
18 consultancy, you just don't care to share that with me?

19 A Yes.

20 Q Okay. Just note that if we need to get an  
21 answer to that question we may come back to you with an  
22 order from the court.

23 A Big -- big -- big deal.

24 Q Okay.

1       A   Big deal.

2       Q   By the way, do you have records of what you were  
3   paid?

4       A   (Short pause) --

5       Q   You can answer that question. Go ahead.

6       A   Well, I'm just thinkin' whether I do or not.

7   (Short pause) -- if I've kept my -- (short pause) -- yeah,  
8   yeah, you have -- see, you have to keep your income tax  
9   records, don't you?

10      Q   At least for a certain --

11      A   Certain term -- well, five years at least. And  
12   we haven't gotten to the fifth year past 2003, have we?  
13   So to answer your question, yeah, I must have records.

14      Q   Would you hang on to those records until we  
15   resolve this issue with the court; okay?

16      A   Well, I have to.

17      Q   Okay, good.

18      A   It's not whether I want to or not. I'm legally  
19   required to. (Laughter) --

20      Q   You'd mentioned in your prior testimony that you  
21   worked for the Sherwin-Williams Company from December of  
22   '80 to July of 1981; is that right?

23      A   Yes.

24      Q   Okay. During that time how much time did you

1 spend away from the Hillsboro plant on travel?

2 A (Short pause) -- well, I couldn't answer that  
3 question just absolutely specifically. I know I made some  
4 sales calls with -- with Mr. Fuller and also his southern  
5 guy in -- out of Atlanta, as I recall. And I went to  
6 Coffeyville several times in the spring of -- yeah, '81.  
7 But I don't recall details. Just -- sorry, I just don't.

8 Q Okay. During the time that you were employed by  
9 the Sherwin-Williams Company where did you live?

10 A Here.

11 Q Hillsboro?

12 A Yes.

13 Q Okay. Did you maintain an office in Hillsboro?

14 A (Short pause) -- during employment with

15 Sherwin-Williams?

16 Q Yes.

17 A No.

18 Q Okay. Did -- did you have an office at the  
19 plant?

20 A Oh, sure.

21 Q Okay. And --

22 A In fact, I had the big office since I was the  
23 old guy. They just left me alone. I got to sit in my old  
24 chair.



1 Q Of the time that you spent working for  
2 Sherwin-Williams, about what percentage were you in  
3 Hillsboro as opposed to being out of town?

4 A Well, you're answering (sic) the same question.  
5 You just -- you just asked how much travel I did, and  
6 you're asking the reverse; and, I can't answer either one  
7 of them.

8 Q So you really don't have any idea what  
9 percentage of time you --

10 A What percentage of time?

11 Q Yeah, percentage the time.

12 A No, I don't. But it would have been less than  
13 50 percent travel, I'm sure of that. I don't think I was  
14 out that much, but -- I was out quite a deal, but I don't  
15 happen to remember how much.

16 Q Let me direct your attention back to  
17 Exhibit 2 --

18 A Uh-huh.

19 Q -- the assay sheet. Do you see that sheet?

20 A Yeah, sure.

21 Q Do you recognize that handwriting on there?

22 (Short pause while said  
23 exhibit was reviewed by the  
24 deponent.)

1 A You mean the Les?

2 Q Yeah.

3 A And the mix room, misc?

4 Q All that handwriting, do you recognize it?

5 (Short pause while said  
6 exhibit was further reviewed  
7 by the deponent.)

8 A I don't know. No, not necessarily.

9 Q It's not your handwriting, is it?

10 A Could be. Could be. That's just about the way  
11 I'd write a Les. Could be. I'm not saying it is or it  
12 isn't. I don't know.

13 Q All right.

14 A Could be. I won't deny that it's mine if  
15 that -- could well be mine.

16 Q Were you in charge of the laboratory at the time  
17 Exhibit 2 was prepared?

18 A Say this again?

19 Q Were you in charge of the laboratory at the  
20 plant at the time Exhibit 2 was prepared?

21 (Short pause while said  
22 exhibit was reviewed by the  
23 deponent.)

24 A Well, what -- this is in 1979? This is the

1     dates I see -- 9-14. Was that your question? Was I in  
2     charge of the laboratory?

3         Q   Were you in charge of the laboratory from 1979  
4     to 1980?

5         A   (Short pause) -- was never in charge of the --

6         Q   Okay.

7         A   -- of the laboratory at Hillsboro.

8         Q   In -- in 1979 and 1980 was it your practice to  
9     fill out assay sheets like Exhibit 2?

10        A   My practice?

11        Q   Yes.

12        A   To fill out an assay sheet in -- well, heavens,  
13     no. What -- (laughter) -- I -- that question doesn't seem  
14     germane to me. I don't know why you'd ask that question.

15        Q   Well, I ask because you said that it might be  
16     your handwriting and it might not be. So if it wasn't  
17     your practice --

18        A   Well, I could have looked at the sheet and --  
19     but Les -- Les Roman (phonetic) was the plant  
20     superintendent at the time. Might have been somethin' I  
21     might have wanted to call to his attention or something  
22     like that.

23        Q   Were any of the digits that are on Exhibit 2 in  
24     your handwriting?

1 A Which Exhibit 2? This?

2 Q The assay sheet.

3 A No.

4 Q All right.

5 A Nah.

6 Q So the only handwriting that may or may not be  
7 yours is the word Les?

8 A L-e-s -- why, sure, with a circle around it. I  
9 could believe that I could have seen that and said I  
10 wanted to -- I could have looked at it in the laboratory  
11 and wanted Les to look at it, put Les on it and circled  
12 it.

13 Q As --

14 A Sure.

15 Q As you sit here today, do you have any  
16 recollection of ever seeing Exhibit 2 before?

17 A Why, I've looked at so mill -- (laughter) --  
18 millions of assay sheets in my life that I haven't the  
19 slightest idea.

20 Q You say you have -- you have not the slightest  
21 idea. You have not the slightest idea, that what you  
22 said? You were kind of laughing when you were answering  
23 and I couldn't hear you.

24 A Let's go back again -- and what's the question?

1       Q   Do you have an idea whether you ever saw  
2   Exhibit 2 before?

3       A   (Short pause) -- do I have an idea as to whether  
4   or not I saw it?

5       Q   Let me rephrase it.

6       A   Yeah, I --

7       Q   Have you seen Exhibit 2 before today?

8       A   Not necessarily. It doesn't -- doesn't strike  
9   any bell, if that's what you're trying to say. Looks like  
10   an ordinary laboratory assay sheet like -- like we used in  
11   Eagle Picher days. So perfectly reasonable I would have  
12   seen it or not as the case may be.

13      Q   Do you have a present recollection of seeing  
14   Exhibit 2?

15      A   Why, heavens no.

16      Q   How many years did Eagle Picher produce leaded  
17   zinc oxide at the plant?

18      A   (Short pause) -- I can't answer the beginning,  
19   obviously. I can answer the end because -- and it's been  
20   stated here, I think I said that we quit in '57 and I  
21   think I saw someplace else here where it said '58. And --  
22   (short pause) -- no, it was '58, it was '58. I was plant  
23   manager at '58 and I was the guy that recommended we quit  
24   and we did. So fifty -- '58 fits.

1 Q Do you have an understanding of whether it had  
2 been produced at this plant for longer than a decade?

3 A I would say it's extremely likely that it was,  
4 but I do not know.

5 Q I'm not sure that we've established precisely  
6 the years that Eagle Picher operated at this site. Can  
7 you frame that for me --

8 A Yeah.

9 Q -- the beginning and the end?

10 A 1919 they bought it from the Lanyon boys --  
11 brothers and operated it until it was sold to  
12 Sherwin-Williams.

13 Q Okay.

14 A Which was November the -- what, 20th, wasn't it,  
15 of '80. Yeah.

16 Q 1980?

17 A Yeah.

18 Q All right.

19 A Strikes me as being the right figure.

20 (An off the record discussion  
21 was held between Mr. Burke and  
22 Mr. McDonnell.)

23 MR. BURKE: I don't have any other questions.

24 MR. IX: I have no questions.

1 MR. KRUEGER: And I don't either.

2 So thank you very much for your time.

3 THE DEPONENT: Okay.

4 FURTHER DEPONENT SAITH NOT

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1 Petition to Perpetuate Testimony - Case No. 1:07MC61  
 2 October 30, 2007 Deposition M. Dodd (Krueger, Burke, lx)  
 3 STATE OF ILLINOIS )  
 4 ) SS.  
 5 COUNTY OF )

6 I, MORRIS DODD, deponent herein, do hereby  
 7 certify that I have read the foregoing deposition and that  
 8 it is a true and accurate translation of the questions  
 9 asked of me and the answers given by me, with the  
 10 following change(s):

11 PAGE \_\_\_\_\_, LINE \_\_\_\_\_

12 CHANGE DESIRED \_\_\_\_\_

13 \_\_\_\_\_

14 REASON FOR CHANGE \_\_\_\_\_

15 PAGE \_\_\_\_\_, LINE \_\_\_\_\_

16 CHANGE DESIRED \_\_\_\_\_

17 \_\_\_\_\_

18 REASON FOR CHANGE \_\_\_\_\_

19 PAGE \_\_\_\_\_, LINE \_\_\_\_\_

20 CHANGE DESIRED \_\_\_\_\_

21 \_\_\_\_\_

22 REASON FOR CHANGE \_\_\_\_\_

23

24 \_\_\_\_\_  
 DEPONENT

Subscribed and sworn to before me  
 this \_\_\_\_\_ day of  
 A.D., 2007.

23

24 \_\_\_\_\_  
 Notary Public D



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ERRATA SHEET  
(Submitted for signature)

14            Given under my hand and seal this 19th day of  
15   November, A.D., 2007.

17 \_\_\_\_\_  
18 Certified Shorthand Reporter,  
19 Registered Professional  
Reporter and Notary Public  
(CSR Number 84-001782)

21 May 29, 2011.

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